

Does the territoriality principle work in practice? The principle's applicability to the Romansh area in the Swiss Canton of Grisons

Matthias Grünert

1. Introduction

The “territoriality principle” is a legal term related to the territorial organization of states¹. According to this principle, law is applied to the territory of a state (Viletta 1978: 309) or to parts of it, insofar as subordinate state levels are responsible for regulation. On the basis of the organizing principle which attributes competences to territories of a state, the linguistic territoriality principle attributes a restricted number of languages to political, administrative or juridical entities within a state (cf. Richter 2005: 145).

The sociolinguist Heinz Kloss and the political scientist Jean Laponce presented the territoriality principle as a means of protecting minority languages and compared it to personality-based principles (Kloss 1965, Laponce 1984: 157–164). Kloss distinguished the “principle of commitment” (which may be based on the self-evaluation of one’s linguistic identity or on the deliberate commitment to a language) and the “principle of disposal” (when languages of households are identified, by the individuals concerned or by authorities). Laponce opposed the territoriality principle to a series of rights attached to individuals: the right to speak one’s language, the right to be understood when speaking one’s language, the right to obtain education in one’s language and the right to ethnic identity. Whereas Laponce judged the territoriality principle as entirely positive, Kloss deemed it a less democratic method than the principle of commitment and noted that it did not operate only in favour of minority languages (Kloss 1965: 65).

The question of the territoriality of languages has been approached by researchers from various disciplines outside linguistics, such as jurisprudence, political science, economics, sociology and philosophy. Studies have focused on single languages or considered data about several languages, aiming to compare different political and legal situations. More general contributions have, on the basis of theories and procedures from

different fields, presented possibilities for policies in multilingual contexts (e.g. McRae 1975, Grin 1995, Parijs 2010).

The present paper addresses the question of territoriality with reference to the Swiss minority language Romansh, taking account of the contributions of jurists who were dealing with the legal situation in Switzerland in different moments and with different foci (Rudolf Viletta, Daniel Thürer and Dagmar Richter, the first two being involved in processes concerning the Romansh area). Furthermore, insights from a philosopher, Philippe Van Parijs, who since 1999 has been contributing to a conception of hierarchy between languages, will also be considered. Concerning the Romansh area, sociolinguistic data will be included in order to verify the suitability of conceptions and solutions proposed by the authors cited.

The subject of territoriality will be approached first by showing its importance in the common perception of the national languages of Switzerland (section 2). After the presentation of different conceptions of the function and application of the territoriality principle (section 3), some basic information about the geographical distribution of Romansh in the Canton of Grisons will be given (section 4) and the efforts that have been made to enshrine the territoriality principle in the legislation of the Canton of Grisons will be outlined (section 5). Finally the following question will be addressed: to what extent does the *linguistic territoriality regime*, as postulated by Van Parijs (2009: 163) seem to be realizable in the situation we observe in the Romansh area at present (section 6)?

2. Swiss multilingualism and territoriality

Swiss multilingualism is traditionally linked to language areas: the German, the French, the Italian and the Romansh ones. Within these areas the traditional language is in most cases, i.e. in the majority of the communes, statistically predominant. What is brought into focus by this approach is the coexistence, within one state, of several language areas that are conceived of as quite homogeneous, thereby neglecting the multilingual repertoires of individuals and society.

Language management in Switzerland has been determined for a long time by this view: the regulation of official and school languages within the Cantons of the Swiss Confederation follows the *ius soli*, i.e. among the national languages the local one is (in a few cases, the local ones are) chosen whereas the non-local national languages are excluded as languages of

administration and as first languages of instruction at school (cf. Haas 2006: 1775). Even a traditional local language which is no longer majoritarian may maintain its status as official language and as school language of a commune. Such cases are observed especially in the area of the regressive minority language Romansh in the Canton of Grisons.

The territoriality principle, which has been enshrined in Swiss federal and cantonal legislation only in the two last decades, had in fact been applied in legal practice earlier in order to protect the homogeneity of language areas (cf. Richter 2005: 900–908, 913–920). The efficacy of this juridical instrument, however, is limited. It cannot generally impose a language in an area; what it does is prevent certain obligations in matters of local language being sidestepped. The territoriality principle is being evaded, e.g., when parents ask to send their children to a school outside the language area where they live, when a court decision is demanded in a non-territorial language or when a request to put up a sign in a non-territorial language is submitted. A tricky situation arises when the territoriality principle is applied against a minority language: in 1974 an inhabitant of the German-speaking commune of St. Martin in the Grisons was not allowed to send his children to the Romansh school of the neighbouring communes Tersnaus and Uors without assuming the costs himself (cf. Richter 2005: 916–920, Thürer and Burri 2006: 270).

A focus on territory is visible in Swiss censuses (Lüdi and Werlen 2005: 25), which admit only monolingual identities, i.e. only one “mother tongue” (in the censuses from 1860 until 1980) or only one “main language” (in the two last censuses of 1990 and 2000). Even if the censuses of 1990 and 2000 gave respondents the opportunity to mention several languages used in everyday life, one language of best command had to be selected. As a consequence of the obligatory commitment to one linguistic identity, the areas of three national languages, German, French and Italian, appear to be quite homogeneous, whereas the area of the Romansh language, whose speakers are thoroughly bilingual, sometimes having an equivalent or even a better command of German, seems to be an archipelago within the German-speaking area. This contrast is illustrated by Fig. 1, which presents the situation emerging from the 2000 census data.

The territory-focused approach to language was criticized in linguistics and political debates as being unable to cope with multilingual individuals and societies. Sociolinguists who are interested in describing linguistic variation and multilingual repertoires consider territory as a dimension where these aspects can be examined. Statistical data about the presence of

languages in a territory are taken as a framework within which further analyses can be carried out.

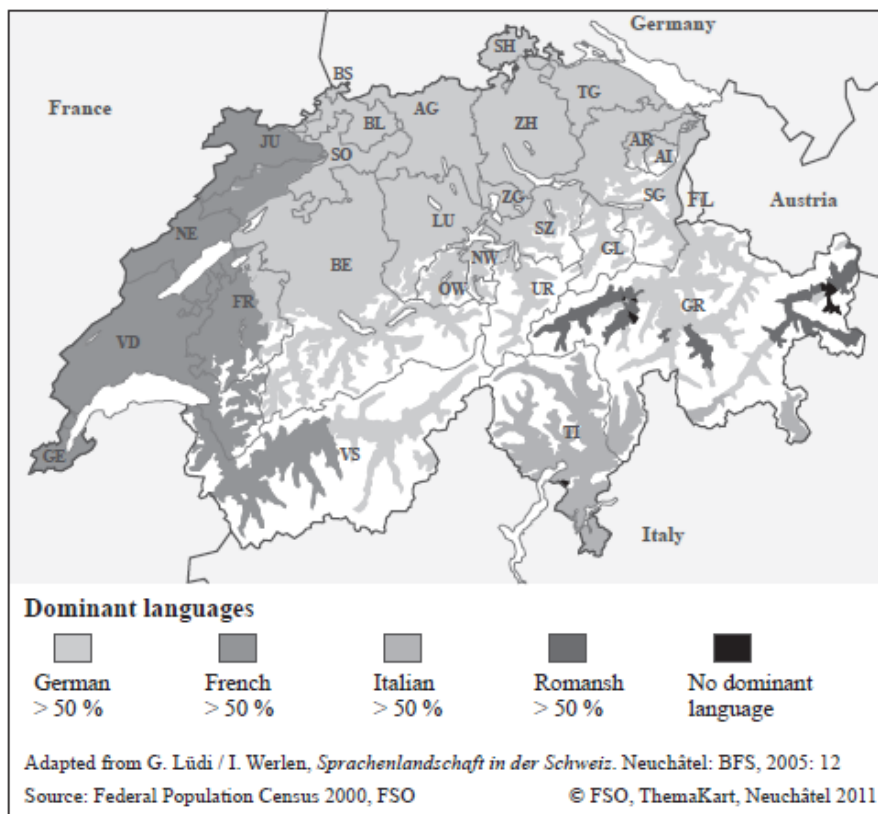


Figure 1. Resident population according to main language (language of best command): national languages by communes in 2000

Table 1. Main language in 2000

German	French	Italian	Romansh	Other languages
4'640'359	1'485'056	470'961	35'095	656'539
63,7%	20,4%	6,5%	0,5%	9,0%

In politics the territoriality principle is advocated by actors who are concerned about the preservation of regional and minority languages. In the recent history of Switzerland, this position emerged in the 1980s and 1990s (cf. Coray 2004), when efforts were made to enshrine the territoriality prin-

ciple in legislation, which had already been observed previously in legal practice. During the debates in the Federal parliament, however, a further point of view gained attention: the perception that there was a lack of mutual interest and exchange among the language communities of Switzerland. This problem was related to an excessive use of dialect (instead of standard German) by German-speaking Swiss and the spread of English as a *lingua franca*. Whoever was concerned about this question insisted on the communicative function of language (focusing on *communities*, not on *areas*!) and on the dynamic character of language, as opposed to the territorial, “patrimonial” point of view, which defines language as part of the cultural heritage that has to be preserved (cf. Coray 2004: 290).

The clash between the adherents of the territoriality principle, especially politicians from the areas using a Romance language, and the advocates of less top-down control was so strong that the two controversial principles which the Federal Council had proposed to enshrine in the language article of the Federal Constitution, i.e. the territoriality principle and freedom of language choice, were left out and in 1996 the revised language article was approved without any mention of these two aspects. However, three years later, on the occasion of the total revision of the Federal Constitution, a separate article guaranteeing the freedom of language choice was added and in the language article a new paragraph circumscribing the territoriality principle was included (cf. Coray 2004: 260–261):

The freedom to use any language is guaranteed. (SR 101, art. 18)

The Cantons shall decide on their official languages. In order to preserve harmony between linguistic communities, the Cantons shall respect the traditional territorial distribution of languages and take account of indigenous linguistic minorities. (SR 101, art. 70, al. 2)

A remarkable term in the paragraph concerning the territoriality principle is *linguistic communities*. The term had not been used before in the Swiss Constitution, which previously identified only the Confederation and the Cantons as political actors (cf. Werlen et al. 2011: 13, Coray 2004: 287–290). In the past, *community* had referred to the solidarity within the nation (cf. Coray 2004: 288), encompassing all speakers of all national languages. The identification of linguistic communities came up during the debates of the 1980s and 1990s when efforts were made to improve comprehension and interaction among the speakers of the different national languages.

The traditional territory-focused approach to Swiss languages, on the other hand, determines the wording concerning the language areas in the

Federal Constitution article quoted. This is especially striking in the German and in the Italian versions, which talk about “die herkömmliche sprachliche Zusammensetzung der Gebiete” and “la composizione linguistica tradizionale delle regioni”, i.e., literally, “the traditional linguistic composition of the areas”, as if the space under consideration resulted from an assemblage of separable unities. The speakers inhabiting these areas and using these languages are left out (cf. Werlen 2011 et al.: 14).

3. Views of Swiss jurists and a Belgian philosopher

The call for strong protection of the Romansh area which led to the revision of the federal language article of the 1980s and 1990s is closely connected with the Romansh-speaking jurist Rudolf Viletta. With his thesis about language rights in Switzerland (Viletta 1978) and with a series of publications and public appearances in the 1970s and 1980s, Viletta stood out as an advocate of a strict implementation of the territoriality principle in favour of Romansh. His claim is based on the observation that, in spite of the application of the territoriality principle in legal practice, the freedom of language choice turns out to be stronger in the traditional area of the smallest language group in Switzerland.

In 1982, the government of Grisons mandated the jurist Daniel Thürer (professor at the University of Zurich from 1983 until 2010) to write a report on the suitability of applying the territoriality principle in order to protect Romansh more effectively. Thürer evaluated the situation by taking into account the particular historical and juridical conditions of Grisons and the possibilities offered by the current law on the federal and cantonal level. The fact that the Grisons had emerged as a federation of communal corporations with heterogeneous linguistic and confessional affiliations, explained, according to Thürer, their low interest in regulating the use of languages on their territory. Or, put differently, this task was traditionally delegated to communes (Thürer 1984: 260–261). So it was understandable that the cantonal legislation lacked even a basis from which an obligation to protect a territory could be deduced. According to Thürer, the federal legislation of that moment, which was limited to article 116 of the Federal Constitution, did not allow specification of the content of the territoriality principle. The article of the Federal Constitution just mentioned four national languages – German, French, Italian and Romansh – fixing the first three as official languages of the Confederation. In his conclusion Thürer states,

however, that the Canton would be obliged to act if a national language was especially endangered (Thürer 1984: 265). Thürer did not pronounce a judgment on the degree of endangerment of Romansh, but he recommended that the protection of linguistic and cultural minorities be at the centre of the revision of the Federal Constitution (Thürer 1984: 266). In later publications, Thürer points out that in linguistically mixed areas, solutions could not be found by simply quoting the territoriality principle, which aims at maintaining linguistic homogeneity (Thürer 2005: 165, Thürer and Burri 2006: 271), but that nevertheless a stricter application of the territoriality principle in favour of minorities would be appropriate (Thürer 2005: 163).

More recently, the territoriality principle with reference to languages has been the subject of a series of publications of the Belgian philosopher Philippe Van Parijs. The languages considered by Van Parijs are not only minority languages in the strict sense, but also languages that are overshadowed by the dominant national language, although they are in the position of the dominant language in another country, as well as dominant national languages that are overshadowed by the global lingua franca English. Van Parijs proposes the following distinction between dominant and dominated languages:

- a) Generalized unilingualism: the dominant language is imposed in the whole state and the dominated language is gradually replaced.
- b) Generalized bilingualism: the state offers its services in two languages, but in social practice one of them will be weaker, and thus “this soft bilingualism is just a milder, slower, more covert but no less inexorable form of generalised unilingualism. This is so because of a process perceptively described by Jean Laponce: the more kindly people behave towards one another, the more savagely languages treat each other”. Whereas languages can coexist beside one another as long as there is little contact between them, in a bilingual society “one language gradually drives out the other” (Parijs 2000: 241).
- c) Non-territorial separation: besides areas that are attributed to single languages there are linguistically mixed areas. The difficulties which this combination of territorial and personal federalism faces in Belgium suggest that there is no better solution than territorial separation.
- d) Territorial separation: Van Parijs concludes that the protection of languages, which he deems necessary, “requires some sort of territoriality principle to be enforced”. The fact that “relations between linguistic communities have on the whole been significantly better in Switzerland than in Belgium, Canada or Spain” (Parijs 2000: 244) proves the validity

ty of this option. When classifying the Swiss regime as a regime of “territorial separation”, Van Parijs seems to be considering the French-speaking community, the strongest linguistic minority in Switzerland, rather than the Romansh-speaking one.

Van Parijs emphasizes that linguistic borders should not coincide with socio-economic borders: the linguistic sub-division of Belgium should be counterbalanced by inter-regional solidarity on the level of the welfare state and by an electoral system “that induces vote pooling across the linguistic border”. A further exchange between the language areas is imagined in a “common forum of discussion, which will increasingly be not in French [...], or in Dutch [...], or in German [...], but in the emerging first universal lingua franca” (Parijs 2000: 247).

It is notable that the relations outlined between the linguistic communities of Belgium are postulated by the author on yet a higher level, between the language communities of the European Union, including the communities that are majoritarian in the member states. Van Parijs’ conception presupposes individuals who are open to multilingualism: on the one hand they should use the lingua franca English for communication with any other language community; on the other they should accommodate to the language of their residence area (cf. Parijs 2007: 221, 240). The privileged role which a dominated language should play in a certain territory is presented as a counterbalance to its general submission to the dominant language. The proposed “set of legal rules that constrain the choice of the languages used for purposes of education and communication” (Parijs 2009: 163) presumes, however, that “there must be a sufficiently large and geographically concentrated number of people who regard themselves as sharing the same language and are willing to pay the cost, if any, of implementing a linguistic territoriality regime” (Parijs 2010: 192). As for Switzerland, the more homogeneous areas of two linguistic minorities, the French and the Italian ones, fulfil this criterion, whereas the Romansh community does not seem to reach the critical mass that would allow its language to play a privileged role within its area, “to be ‘queen’”, as Van Parijs (2009: 163) puts it.

4. The minority language Romansh in its traditional area

If one considers the presence of the four Swiss national languages in their respective areas, the situation of Romansh stands out as characterized by high instability. This may not be surprising if one takes into account that

Romansh is spoken by about 60'000 people and that it is not only the language of a small minority in Switzerland, but is also a language that does not receive any support from a strong community in a neighbouring country, as do German, French and Italian in Switzerland.

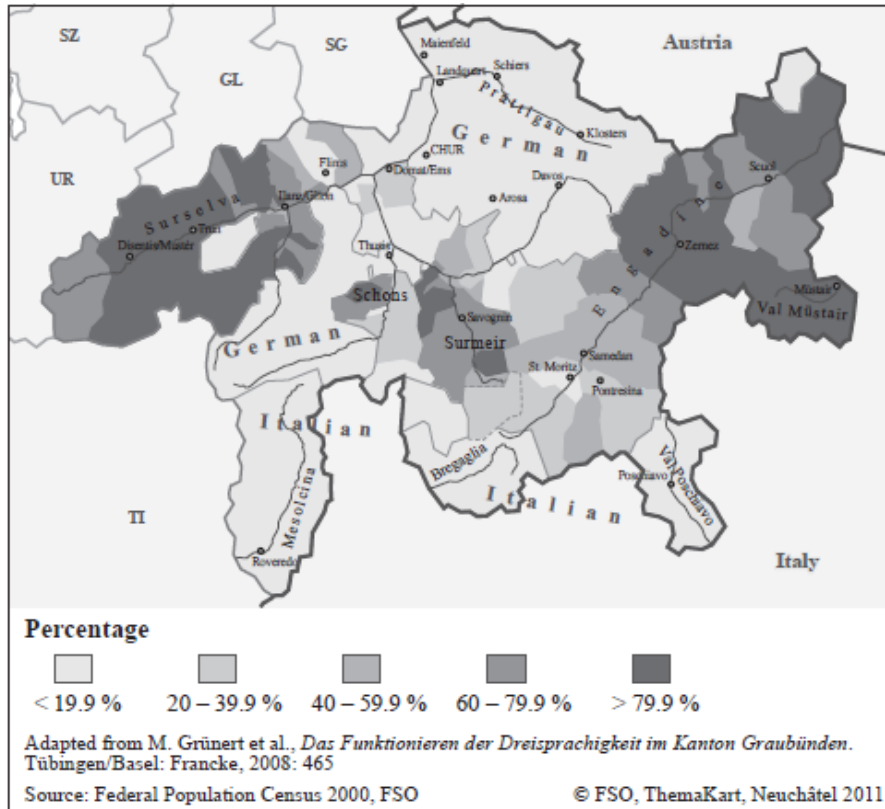


Figure 2. Romansh as main language and/or as a regularly used language in the traditional Romansh area

Furthermore, it should be noted that, as a consequence of emigration from peripheral to central areas, little more than half of the Romansh speakers (33'991) live in the traditional Romansh area. What we now call, according to Furer's proposal (Furer 1996: 35), the *traditional Romansh area* is the area where at least in one of the first four Swiss censuses to include data about languages, i.e. the censuses from 1860 to 1888, the majority of the population indicated Romansh as a mother tongue. This area differs little from the Romansh majority area of the 16th century, when Romansh, main-

ly in the context of the Reformation, became a written language. Furthermore, we can affirm that this area is still associated with Romansh, even in its most Germanised parts, where local names, inscriptions on buildings and a handful of speakers are the last relics of the traditional language (cf. Richter 2005: 868).

To this day, only three isolated parts of the traditional Romansh area, the two most outlying subareas, Surselva and the lower Engadine, and a subarea between them, Surmeir, have maintained a majority of Romansh speakers (cf. Fig. 2).

5. The territoriality principle in the legislation of the Canton of Grisons

In the Romansh areas of the Free State of the Three Leagues, a loose federation founded in 1471 and existing until 1799 on the current territory of the Canton of Grisons, Romansh was used in communal political life, whereas the only official language of the federation, for almost all its existence, was German. Only in 1794 did the Three Leagues recognize the two other languages, Romansh and Italian, spoken on its territory as official ones.

The Canton of Grisons, which has existed as a member of the Swiss Confederation since 1803, was only given a constitutional article concerning its languages in 1880. It was, however, an absolutely minimalist article, which, although in force until 2003, merely guaranteed the official status of the three cantonal languages: “Die drei Sprachen des Kantons sind als Landessprachen gewährleistet.” [The three languages of the Canton are guaranteed as official languages] (*Verf. GR* 1880: art. 50). The *extent* of use of the three official languages on the cantonal level was not specified, nor was anything prescribed as to the use of the official languages on the *communal level*. This is a counterpart to the old language article of the Swiss Confederation, which from 1848 until 1996 determined the national languages and/or the official languages of the federal authorities, without prescribing anything as to the use of the official languages on the *cantonal level*.

The current constitution of the Swiss Confederation (cf. above) on the one hand lets the Cantons decide on their official languages, and on the other, in order to preserve harmony between linguistic communities, prescribes respect for the traditional territorial distribution of languages and the consideration of indigenous linguistic minorities (cf. Coray 2004: 350–369).

The particular implementation of the parameters of the Swiss Confederation in the Canton of Grisons emerges from a comparison with the other three Swiss Cantons that have more than one official language. These Cantons are situated on the French-German language border and present the following situations:

The constitution of the Canton of Berne has defined the territories of its two official languages, German and French, since 1950 (*Verf. BE* 1893: art. 17), when the territory of the French-speaking Canton of Jura (founded in 1978) was still a part of it. The new constitution, which has been in force since 2006, realizes its competence to decide on its official languages by including a top-down control of language areas: German (spoken by 84,0%) and French (spoken by 7,6%) are defined as official languages on the levels of administrative regions, districts and communes. Apart from a French-speaking and three German-speaking regions, there is a bilingual region (Seeland) consisting of a German-speaking (Seeland) and a bilingual district (Biel/Bienne). The latter contains 17 German-speaking communes and two bilingual ones, Biel/Bienne and Evilard/Leubringen (*SR* 131.212, art. 6, al. 1-3).

The constitution of the Canton of Fribourg is the only one which declares the territoriality principle as a guideline. The language article, which was revised in 1990, i.e. in the period of the above mentioned revision of the language article of the Federal Constitution, requires that communes choose one or both official languages, French (63,2% of the population) and German (29,2%), on the basis of the territoriality principle (*Verf. FR* 1857: art. 21, *SR* 131.219, art. 6, al. 1-3). The premise for declaring a commune bilingual is that its minority language is spoken by at least 30% of the population. Four districts of the Canton of Fribourg are French-speaking (Broye, Glâne, Veveyse and Gruyère, the latter, however, containing one German commune), one is German-speaking (Sense) and two are mixed, one with a majority of French-speaking communes (Sarine/Saane, where the city of Fribourg represents the only bilingual commune) and one with a majority of German-speaking communes (See/Lac) [cf. Lüdi and Werlen 2005: 93-95, Thürer and Burri 2006: 281]. In the district See/Lac, three communes are traditionally French-speaking although German is statistically predominant (cf. Richter 2005: 676, 690). The remarkable mention of the territoriality principle in the constitution of Fribourg can be explained by the less clear language border in this Canton, which continues to be a matter of discussion, and by the more difficult coexistence of the two communities, which can be linked to the following majority-minority rela-

tions: the French-speaking majority, as part of a minority on the federal level, has been reluctant for a long time to concede rights to the German-speaking minority, which belongs to the majority on the federal level.

The constitution of the Canton of Wallis does not define the territories of the two languages, French (62,8% of the population) and German (28,4%), which are declared to be official ones (*SR* 131.232, art. 12, al. 1). The districts of the Canton of Wallis belong either to the French area (Monthey, St-Maurice, Martigny, Entremont, Conthey, Hérens, Sion and Sierre) or to the German area (Leuk, Visp, Westlich Raron, Brig, Östlich Raron and Goms), i.e. within a district there are either only French or only German communes (cf. the list on the official Website of the Canton of Wallis: <http://www.vs.ch/Navig/navig.asp?MenuID=5079>). The lack of a territorial regulation in this case is due to the clear language border (cf. Werlen et al. 2010: 152–153).

The Cantons of Berne, Fribourg and Wallis are situated in an area where two strong languages with comparable prestige meet. Even if the language border is not everywhere very clear, it is more stable, and a fixation of language territories is simpler than in the area of the Grisons where Romansh and German meet, an area which in addition is characterized by a relative autonomy of communes as to the choice of their official languages.

In the Canton of Grisons, the question as to whether Romansh should be protected more effectively by the application of the territoriality principle was widely discussed in the 1970s and 1980s. Two bills which were submitted to public consultation in 1981 (*SpG* 1980) and 1985 (*SpG* 1985) intended to enshrine the territoriality principle by attributing the communes to a German, a Romansh, an Italian or a bilingual (German and Romansh) territory on the basis of regional tradition, consideration of regional integrity, presence of languages and demographic situation (*SpG* 1980: 252–253, *SpG* 1985: art. 2). Both bills were overwhelmingly rejected.

After this failure, a working group was commissioned to make suggestions for the language policy in the Canton of Grisons. The working group proposed, among other things, the creation of linguistic territories on the basis of associations of neighbouring communes that would commit themselves to using Romansh as the official language (*BASG* 1994, 2: 13–15). In 1995, the communes of the lower part of Engadine and of the neighbouring Val Müstair formed an official Romansh area; later, communes in Surselva and Surmeir followed suit (Gross et al. 2004: 19).

The new, completely revised constitution of the Canton of Grisons, which came into effect in 2004, contains a much more comprehensive lan-

guage article than the old constitution, a language article that regulates, among other things, the choice of official and school languages on the subordinate state levels:

Gemeinden und Kreise bestimmen ihre Amts- und Schulsprachen im Rahmen ihrer Zuständigkeiten und im Zusammenwirken mit dem Kanton. Sie achten dabei auf die herkömmliche sprachliche Zusammensetzung und nehmen Rücksicht auf die angestammten sprachlichen Minderheiten. (*BR* 110.100, art. 3, al. 3)

[The communes and wards shall decide on their official and school languages within their competences and in cooperation with the Canton. By doing so, they respect the traditional territorial distribution of languages and take account of indigenous linguistic minorities].

In the first draft of the law, the cooperation of communes and wards with the Canton was not yet required. Communes, districts, wards and areas would just have had to take into account the traditional minorities on their territories (*GP/Wortl.* 17/06/2002: 236–237). During consultation on the bill, the Romansh League, which is charged with defending the interests of the Romansh people, submitted a proposal according to which *the Canton* would have had to determine official and school languages on the basis of the traditional linguistic composition of the population, by agreement with communes, districts, wards and areas (Lia Rumantscha 2002). The version that was finally approved is consequently a sort of compromise between the first version, where the Canton delegated the responsibility to the subordinate state levels, and the proposal of the Romansh League, which envisaged stronger top-down control. However, the final version means a restriction of the traditionally strong communal autonomy in the Grisons.

During the debate on the constitution in parliament, some deputies requested that the principles defined in the language article be further substantiated in a language law. The demand has been satisfied: since 2008 a language law has been in force in the Canton of Grisons. This law does not stipulate the allocation of communes to linguistic territories as “given entities”, as the rejected 1981 and 1985 bills intended to do, but classifies the communes in terms of languages on the basis of census results (cf. Fig. 3). Communes where at least 40% of the population use a minority language in everyday life (at home and/or at work or at school) are declared “monolingual [Romansh or Italophone] communes”. Communes where less than 40%, but at least 20% of the population use a minority language in every-

day life are declared “plurilingual communes” (cf. *BR* 492.100, art. 16, al. 2–3).

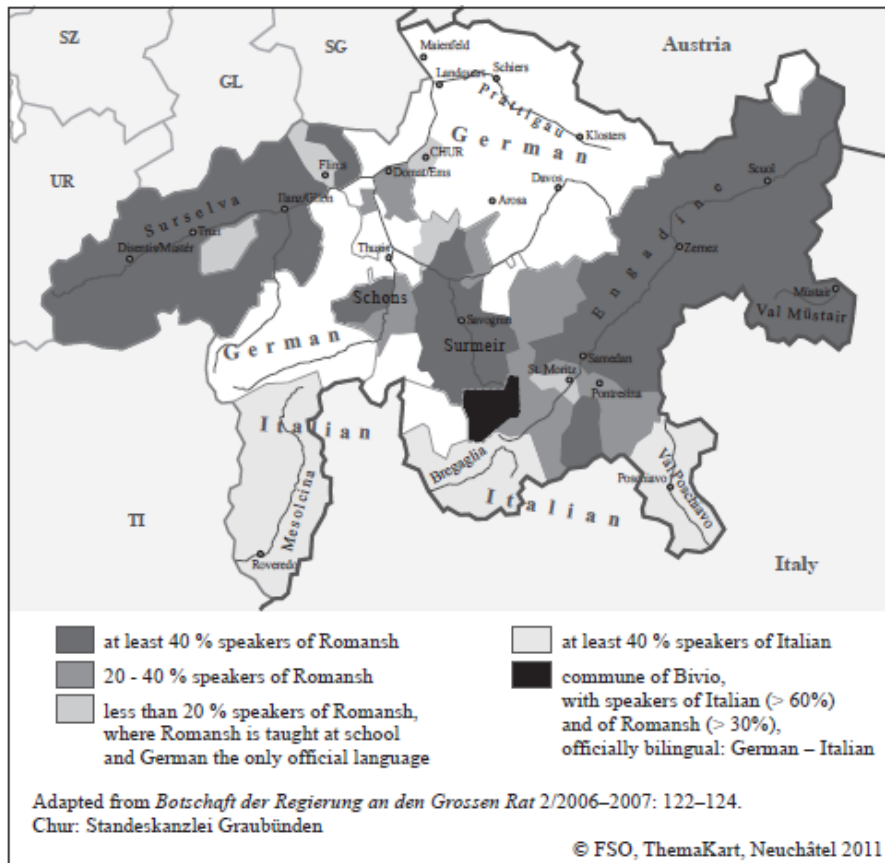


Figure 3. Minority languages in Grisons communes according to the language law

In the first draft of the law, however, the threshold for declaring a commune “monolingual” was set higher: according to it, a commune would have been declared “monolingual” (Romansh or Italophone) if at least 50% of the population indicated Romansh or Italian as their language of best command (*SpG* 2005: art. 17, al. 2, cf. *SpG/Erl. Ber.* 2005: 28, 38–39). This version was criticized by Romansh proponents, who argued that the criteria chosen did not sufficiently take into account the bilingual reality in which Romansh speakers live (*GP/Wortl.* 18/10/2006: 520–521), a reality, to use Grin’s words, with an *asymmetric diglossia* which requires “an

asymmetric policy that will help reduce the power of the larger language” (Grin 1995: 38). As the threshold was lowered to 40%, it is surprising, however, that the law still specifies “monolingual” communes, instead of specifying just “Romansh” or “Italophone” communes. The term used in law is in overt contradiction to the denominated reality, including official practice, which does not have to be exclusively monolingual.

The debate on the language law in parliament showed that the territoriality principle was interpreted in different ways. The law, as it was finally approved, defines the territory on a statistical basis, and consequently conceives it as a dynamic entity. A parliamentary representative criticized that the bill neglected the “traditionally grown linguistic landscapes”, “consolidating a chaotic linguistic landscape” in which single communes that do not reach the established threshold are excluded from the language area (*GP/Wortl.* 18/10/2006: 493).

It should be noted, however, that communes that up to now have not fulfilled the criteria prescribed by the law are not obliged to change their practice (*SpG/Botsch.* 2006: 115). In four communes with over 50% Romansh speakers, German is used as the/an official and/or school language (Ilanz, Schnaus, Lantsch/Lenz and Donat) and six communes with 40–50% Romansh speakers use German as the/an official language and have a Romansh (Zuoz and Madulain) or a bilingual Romansh-German school (Bever, Samedan, La Punt-Chamues-ch and Trin). All these communes, which should be “monolingual” Romansh communes on the basis of the last census data of 2000, are bilingual in their practice, which they can maintain according to transitional regulations contained in the law (*BR* 492.100: art. 27). Thus, the clause refers only to communes which still have a “monolingual” practice. As long as these communes have at least 40% Romansh speakers, they will have to fulfil the standards prescribed by the law. But even if they fall below the fixed threshold, a change to the category of “plurilingual” communes is not automatic, but has to be supported by two thirds of the voters in a communal referendum, after which it has to be approved by the government of the Grisons. The same procedure applies to “plurilingual” communes, which can pass into the category of German-speaking communes if the quota of Romansh speakers falls below 20% (*BR* 492.100: art. 24, al. 1-3).

What spheres does the territoriality principle apply to? The language law provides standards for the domains of education and administration, excluding commerce and the service sector. Concerning education, the law stipulates that “monolingual” communes use the local language as the lan-

guage of instruction (*BR* 492.100: art. 19, al. 1). With reference to the Romansh school this means that all primary school subjects are taught in Romansh for six years, except for German, which is taught from the third year on. During the last three years of the obligatory school period (7-9), however, the majority of lessons are given in German. In contrast, “plurilingual” communes can run – in contrast to Romansh schools – bilingual schools, where Romansh and German are used in all classes as languages of instruction (*BR* 492.100: art. 20, al. 1–2).

As for administration, the local language has to be used in communal assemblies, for referendums, in official communication and publications, in official correspondence with the population, on signs of communal offices and on name plates of streets. “Monolingual” communes only have the obligation to use the local language, with the use of German, however, not excluded (*BR* 492.100: art. 17, al. 1). “Plurilingual” communes, by contrast, have to consider the local language to an appropriate extent, with the use of German taken for granted (*BR* 492.100: art. 17, al. 2).

6. The applicability of the territoriality principle to the Romansh area

Van Parijs admits that “the implementation of a linguistic territoriality regime generates, in some cases, a set of tricky difficulties” (Parijs 2009: 169). Evidently, in the case of Romansh we face a number of problems that do not seem to allow this language to be “queen” (Parijs 2009: 163) in its area, not even in part of it.

First of all it should be noted that identification with the Romansh language is not as exclusive as is the identification of French- or Italian-speaking Swiss with their languages or the identification of Flemish-speaking Belgians with their language. Hence, a lack of respect for the Romansh language will be perceived less as a lack of respect for its native speakers, whose identities are not tied exclusively to Romansh, but, to a certain extent, to German as well (cf. Coray 2008a: 16–18 and 263–264, Coray 2008b: 4–5, 12–16, 20). The results of a sociolinguistic survey (Grünert 2009: 17 and Grünert et al. 2008: 268–269, cf. below Table 2) illustrate the strong ambivalence in the attitude of Romansh speakers. It must be admitted, however, that even the attitude of Italian speakers in the Grisons is characterized by considerable ambivalence, which undoubtedly differs strongly from the attitude of Italian speakers in the Canton of Ticino, which is traditionally completely Italophone.

Table 2. Sociolinguistic survey of 2003/2004

	respond- ents who feel they belong to the Romansh- speaking group	portion of these respondents who feel they belong <i>at the same time</i> to the German- speaking group	respond- ents who feel they belong to the Italian- speaking group	portion of these respondents who feel they belong <i>at the same time</i> to the German- speaking group
1095 respond- ents from 18 selected communes	360	128 35,6%	352	72 20,5%
1798 re- spondents employed in cantonal institutions	427	298 69,8%	252	150 59,5%

This does not mean, however, that Romansh speakers do not at all expect the recognition of their language by speakers of other languages. In communes that are characterized by a strong presence of Romansh, locals expect foreign-tongued persons who settle there to learn Romansh. The following statement was made in Ramosch, a commune where, according to the last census of 2000, 92% of the population regularly use Romansh: “Chi chi nu rispetta la lingua, nu rispetta la glied” [Whoever does not respect the language, does not respect the people]. Newcomers are given a “period of grace” during which the use of German, the second language of all Romansh speakers, is taken for granted, but afterwards foreign-tongued persons are made to feel that they should integrate into the local community by using its language. Foreign-tongued persons who live with a local partner are exposed to particular pressure concerning their linguistic integration (Grünert et al. 2008: 69–73).

Quoting a passage from Van Parijs’ article “Grab a Territory!” (Parijs 2009: 165), we can affirm that the use of Romansh as a medium of schooling in strongly Romansh areas has an “impact on linguistic competence and hence on the spontaneous [...] choice of language in totally uncoerced private communication”. Romansh, which predominates in informal everyday communication, is supported by its importance during the first six years of local schooling and therefore functions as a medium of socialization for

children, even if their parents are foreign-tongued. Foreign-tongued adults with children who attend school are particularly motivated to learn the local language. The socialization of children in the peer group can also have an impact on communication with their parents: in Müstair (where 85% regularly use Romansh) a German-speaking informant said that her daughter refused to speak German to her, forcing her to use the local language (Grünert et al. 2008: 71).

In the above quotation of Van Parijs' article "Grab a Territory" one specification was left out: Van Parijs speaks of "the spontaneous (maximin-guided) choice of language in totally uncoerced private communication". The "maximin language" is "the language that systematically tends to be picked for communication in a context of linguistic diversity", i.e. "the language whose worst user uses it better than the other languages are used by their worst users". My omission is deliberate: the factor of competence hardly operates in favor of a minority language (in the strict sense) if non-natives are involved. The members of the minority have such a high level of proficiency in the majority language that it is very difficult for members of the majority to achieve a proficiency in the minority language which would impose its choice in a group consisting of natives and non-natives of the minority language. If Romansh is nevertheless used in interactions between natives and non-natives, this means that its choice is not maximin-guided. The identification of Romansh speakers with their language in strongly Romansh areas is an important factor in the use of this language with foreign-tongued persons, for these are made to feel that the local community would like them to adapt. On the other hand, the willingness of foreign-tongued persons to learn the local language is a condition for full social integration. We can conclude that linguistic integration is not a necessity even in strongly Romansh areas, but that it is quite important for the social well-being of whoever settles there.

In communes that use Romansh as the official language, foreign-tongued persons who are not willing to learn the local language are easily excluded from assemblies where voters have to decide on communal affairs. Moreover, they may not stand for election to the communal executive, communal council or communal commissions. In an interview, a German-speaking person who lives in such a commune said that she had withdrawn from local public life, because she was "tired of Romansh" (Grünert et al. 2008: 71).

The legal rules that impose the choice of Romansh in the domains of *education* and of *administration and local political life* encourage foreign-

tongued persons to learn the local language and hence contribute to the use of Romansh in uncoerced communication in everyday life. It should be noted, however, that there is an important domain of public life, namely commerce, where the use of Romansh is virtually unregulated. The only point that may be regulated in commerce is the use of Romansh for shop signs and signs of enterprises in communes where Romansh is the official language. Furthermore, enterprises of public transport use Romansh in announcements made over loudspeakers in trains and buses. As to shop signs and signs of enterprises, the protection measures in favour of Romansh may be quite strict, as decisions of the Federal Supreme Court of Switzerland prove (Richter 2005: 900–908).

In the local economy, the use of Romansh in communication with customers depends on the willingness of shopkeepers, sales assistants and entrepreneurs to consider the local language. The observed practice is the following: between Romansh speakers the use of Romansh in oral communication goes without saying, whereas the written use of Romansh (correspondence, bills) depends on the attitude of the entrepreneurs towards the local language and on their written proficiency in it. If this attitude is not positive enough and/or if this proficiency is not high enough, written communication between Romansh-speaking partners may occur in German, the *lingua franca* which can be used with all customers. In oral and written communication with non-Romansh customers, Romansh entrepreneurs never impose their language; they only use it with persons who are fluent enough in it. Usually, unknown customers are spontaneously served in German, whereas Romansh tends to be used with well-known customers.

Romansh is decidedly neglected on labels in shops and on packaging of products. Written information in Romansh can be found rather in local shops that do not belong to chains. Chains, which provide all shops submitted to them with written information, hardly consider Romansh, except for certain products from Grisons.

The lack of regulations in the domain of commerce undermines, to some extent, the territoriality principle supported by school and local authorities. In communes where tourism has a certain importance, the use of German in the domain of commerce is quite or even very strong (and in the upper part of Engadine the use of Italian as well). In such communes, non-Romansh-speaking persons who settle there are less exposed to Romansh inputs and, consequently, less encouraged to learn Romansh. If they learn Romansh, they have to insist on many occasions on using the local language, so the probability of Romansh becoming a regularly spoken language and a lan-

guage of good command is lower (cf. Parijs 2007: 218). The acquisition of Romansh, which is promoted by school and local authorities, does not get the necessary support from commerce.

The question as to whether *diglossia between a dominant and a dominated language may be stable* will be answered differently, depending on whether we relate it to the territory of a minority language in the strict sense or whether we relate it, as does Van Parijs, to the territory of a dominant national language submitted to the global lingua franca English:

Suppose the process has gone so far that practically everyone in a particular country knows the *lingua franca* in addition to the country's main mother tongue. Will there then not be a growing number of contexts in which the local language will no longer unambiguously be the maximin language even among natives? Think of the spread of English-language courses in continental European Universities. As this trend extends downward from postgraduate to undergraduate levels, there will be a number of domains in which natives of a particular language will find it easier to communicate with one another in English than in their own common mother tongue, or in a variant of their mother tongue perforated by strings of lexical borrowings and occasional full sentences in English. (Parijs 2009: 169)

Every Romansh speaker speaks German. In several contexts, Romansh is not the maximin language even among natives. Of course, the situation of Romansh is comparable only to a certain extent with the situation of languages which are the principal ones in their countries or in significant areas of their countries and which are used in higher education, as mentioned in the quotation. The average proficiency of English in non-English-speaking countries is far from being native-like, whereas the general level of proficiency in Swiss German in the Romansh area is native-like or at least very near to native proficiency (cf. Cathomas 2005: 154). In non-English-speaking countries, English may be dominant in certain domains, such as sectors of higher education or international companies, where the strong presence of staff from different countries imposes the lingua franca; in the Romansh area German is dominant in a much greater part of education and workplaces (domains such as agriculture, local trade, local primary school and, in part, local administration are excluded). The restricted domains where English is important or dominant in non-English-speaking countries do not really undermine the territoriality principle. A majority of the population of these countries does not use English regularly; in the Romansh area, however, the territoriality principle is definitely undermined by the

strong use of German at work (except for traditional local sectors) and in education (except for local primary school). The presence of non-Romansh speakers who do not integrate and of tourism are further factors that contribute to the current situation in which the Romansh area is perceived rather as a *bilingual Romansh-German area* or even, depending on the place, as a *bilingual German-Romansh* or (referring to the upper part of Engadine) as a *trilingual German-Italian-Romansh area*. This illustrates that if the local community has attained a certain degree of bilingual or plurilingual identity or even a predominant identity tied to the majority language, the application of the territoriality principle to state-controlled domains may no longer have the necessary impact on other domains that are essential for maintaining a language. The application remains partial and may just slow the regression of the minority language, which is too strictly linked to certain domains. Where the identity tied to the minority language is stronger, the use of the local language in the state-controlled domains interacts better with its use outside these domains, so the affiliation to the language territory reflects everyday life. The variable presence of Romansh within its traditional territory and the different perspectives that this language seems to have, depending on different local circumstances, shows that the application of the territoriality principle is subject to strong restrictions in a democratic and decentralized society where regulation has to be supported by voters and especially by the local community. The procedure of language legislation in Grisons reveals that the majority of voters can hardly be motivated to support a privileged position for a minority language. A further difficulty is the application of half-hearted measures to communes where the population identifies only partially with the minority language.

Note

1. I am indebted to Heather Murray (Zurich) who proofread the text of this contribution.

References (Websites accessed 20/04/2012)

- BASG
1994 *Bericht der Arbeitsgruppe "Sprachlandschaft Graubünden"*. 2 vol.
Chur: Erziehungs-, Kultur- und Umweltschutzdepartement.
- BR *Bündner Rechtsbuch*, www.gr-lex.gr.ch

Cathomas, Rico

- 2005 *Schule und Zweisprachigkeit. Immersiver Unterricht: Internationaler Forschungsstand und eine empirische Untersuchung am Beispiel des rätoromanisch-deutschen Schulmodells*. Münster etc.: Waxmann.

Coray, Renata

- 2004 Minderheitenschutz und Beziehungspflege: die zweite Revision des Sprachenartikels (1985–1996). In *Die Schweizer Sprachenvielfalt im öffentlichen Diskurs*, Jean Widmer, Renata Coray, Acklin Muji Dunya, and Eric Godel, 247–427. Bern: Lang.
- 2008a *Von der Mumma Romontscha zum Retortenbaby Rumantsch Grischun. Rätoromanische Sprachmythen*. Chur: Bündner Monatsblatt.
- 2008b *Rätoromanische Sprachbiographien. Sprache, Identität und Ideologie in Romanischbünden*, www.nfp56.ch > Sprache und Identität.

Furer, Jean-Jacques

- 1996 *Le romanche en péril? Évolution et perspective*. Berne: Office fédéral de la statistique.

GP/Wortl.

- 2002 *Grossratsprotokoll. Wortlaut* 17/06/2002, www.gr.ch > Institutionen > Parlament > Protokolle Sessionen > Protokolle 2002.
- 2006 *Grossratsprotokoll. Wortlaut* 18/10/2006, www.gr.ch > Institutionen > Parlament > Protokolle Sessionen > Protokolle 2006.

Grin, François

- 1995 Combining immigrant and autochthonous language rights. In *Linguistic Human Rights. Overcoming Linguistic Discrimination*, Tove Skutnabb-Kangas, Robert Phillipson, and Mart Rannut, 31–48. Berlin, New York: Mouton de Gruyter.

Gross, Manfred et al.

- 2004 *Romansh. Facts & Figures*. Chur: Lia Rumantscha.

Grünert, Matthias

- 2009 Die Minderheitensprachen in der Verwaltung des dreisprachigen Kantons Graubünden. *Hieronymus* 2009/1: 16–24.

Grünert, Matthias, Mathias Piconi, Regula Cathomas, and Thomas Gadmer

- 2008 *Das Funktionieren der Dreisprachigkeit im Kanton Graubünden*. Tübingen/Basel: Francke.

Haas, Walter

- 2006 Die Schweiz/Switzerland. In *Sociolinguistics. An International Handbook of the Science of Language and Society. 2nd edition*, Ulrich Ammon, Norbert Dittmar, Klaus J. Mattheier, and Peter Trudgill (eds.), vol. 3, 1772–1787. Berlin, New York: de Gruyter.

Kloss, Heinz

- 1965 Territorialprinzip, Bekenntnisprinzip, Verfügungsprinzip. Über die Möglichkeiten der Abgrenzung der volklichen Zugehörigkeit. *Europa Ethnica* 22: 52–73.

- Laponce, Jean
1984 *Langue et territoire*. Laval: Les Presses de l'Université Laval.
- Lia Rumantscha
2002 *Per ina ferma posiziun dals linguatgs minoritars en la nova consti-
tuziun chantunala*. Cuira: Lia Rumantscha.
- Lüdi, Georges, and Iwar Werlen
2005 *Sprachenlandschaft in der Schweiz*. Neuchâtel: Bundesamt für Sta-
tistik.
- McRae, Kenneth Douglas
1975 The Principle of Territoriality and the Principle of Personality in
Multilingual States, *International Journal of the Sociology of Lan-
guage* 4: 33–54.
- Parijs, Philippe Van
1999 Quelle philosophie politique pour une démocratie plurilingue? In
*Des idées et des hommes. Pour construire l'avenir de la Wallonie et
de Bruxelles*, Groupe Avenir UCL (ed.), 11–26, Bruxelles: Acade-
mia-Bruylant.
- 2000 Must Europe be Belgian? On Democratic Citizenship in Multilingual
Politics. In *The Demands of Citizenship*, Catriona McKinnon, and
Iain Hampsher-Monk (eds.), 235–253, London/New York: Contin-
uum.
- 2007 Europe's Linguistic Challenge. In *The Language Question in Europe
and Diverse Societies*, Dario Castiglione, and Chris Longman (eds.),
217–253, Oxford/Portland Oregon: Hart.
- 2009 Grab a Territory! How equal linguistic dignity can be reconciled
with English dominance in the European Union. In *The Ties that
Bind. Accommodating Diversity in Canada and the European Union*,
Johanne Poirier, John Erik Fossum, and Paul Magonette (eds.), 155–
172. Bern etc.: Lang.
- 2010 Linguistic Justice and the territorial imperative. *Critical Review of
International Social and Political Philosophy* 13 (1): 181–202.
- Richter, Dagmar
2005 *Sprachenordnung und Minderheitenschutz im schweizerischen Bun-
desstaat. Relativität des Sprachenrechts und Sicherung des Sprach-
friedens*. Berlin: Springer.
- SpG
1980 Sboz per ina lescha da lungatgs pil cantun Grischun. *Annalas da la
Societad Retorumantscha* 93: 252–257.
- 1985 *Entwurf zu einer Sprachengesetzgebung für Graubünden*. Chur:
Erziehungs-, Kultur- und Umweltschutzdepartement.
- 2005 *Sprachengesetz des Kantons Graubünden (SpG). Vernehmlassungs-
entwurf*. Chur: Erziehungs-, Kultur- und Umweltschutzdepartement.

SpG/Erl. Ber.

- 2005 *Erläuternder Bericht zum Sprachengesetz des Kantons Graubünden (SpG). Vernehmlassung.* Chur: Erziehungs-, Kultur- und Umweltschutzdepartement.

SpG/Botsch.

- 2006 Sprachengesetz des Kantons Graubünden (SpG). *Botschaft der Regierung an den Grossen Rat* 2/2006–2007: 73–175, www.gr.ch > Institutionen > Parlament > Botschaften > Heft Nr. 2/2006–2007.

SR

- Systematische Sammlung des Bundesrechts*, www.admin.ch > Gesetzgebung > Systematische Sammlung

Thürer, Daniel

- 1984 Zur Bedeutung des sprachenrechtlichen Territorialprinzips für die Sprachenlage im Kanton Graubünden. *Schweizerisches Zentralblatt für Staats- und Gemeindeverwaltung* 85: 241–271.
- 2005 Recht und Sprache: Von Bivio bis Babylon. In *Die Ladinier – eine Minderheit in der Minderheit*, Peter Hilpold, and Christoph Perathoner (eds.), 141–170, Wien etc.: Schulthess.

Thürer, Daniel, and Thomas Burri

- 2006 Zum Sprachenrecht der Schweiz. In *Zur Entstehung des modernen Minderheitenschutzes in Europa. Handbuch der europäischen Volksgruppen*, Christoph Pan, and Beate Sibylle Pfeil (eds.), 242–266. Vol. 3. Wien/New York: Springer.

Verf. BE

- 1893 *Staatsverfassung des Kantons Bern vom 4. Juni 1893*, <http://www.verfassungen.de/ch/bern/verf93-i.htm>

Verf. FR

- 1857 *Staatsverfassung für den Eidgenössischen Stand Freiburg vom 7. Mai 1857*, <http://www.verfassungen.de/ch/freiburg/verf57-i.htm>

Verf. GR

- 1880 *Verfassung für den Kanton Graubünden vom 23. Mai 1880*, <http://www.verfassungen.de/ch/graubuenden/verf80-i.htm>

Viletta, Rudolf

- 1978 *Abhandlung zum Sprachenrecht mit besonderer Berücksichtigung des Rechts der Gemeinden des Kantons Graubünden*. Vol. 1: *Grundlagen des Sprachenrechts*. Zürich: Schulthess.

Werlen, Iwar, Verena Tunger, and Ursula Frei

- 2010 *Der zweisprachige Kanton Wallis*. Visp: Rotten Verlag.

Werlen, Iwar, Lukas Rosenberger, and Jachin Baumgartner

- 2011 *Sprachkompetenzen der erwachsenen Bevölkerung der Schweiz*. Zürich: Seismo.